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Honorable Ken Calvert, Chairman

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Operations of the Water Delivery System:

the CALFED Record of Decision - and the Anticipated Water Deliveries for 2002

Chairman Calvert, members of the subcommittee, my name is Walter J. Bishop. I am the General Manager and chief executive officer for the Contra Costa Water District in Concord, California. The Contra Costa Water District serves 450,000 people and is the largest urban contractor for the Bureau of Reclamation's Central Valley Project. The District was the first contractor to receive water from the Central Valley Project. The Contra Costa Water District is located within the Sacramento-San Joaquin Delta and is totally reliant on the Delta for its water supply. The quality of our drinking water is directly affected by the operations of the Federal and State water projects, more so than any other urban agency in California. Our District has been intensively and constructively involved with other urban and agricultural water agencies, with federal and state regulatory agencies and environmental organizations in many of the planning and operational efforts to reach solutions on Bay-Delta issues. The District has played key roles in helping the Federal and State agencies, water users and environmental organizations in reaching consensus in a variety of areas including the 1994 Bay-Delta Accord and the joint Federal-State CALFED Bay-Delta Program.

My testimony today will focus on possible solutions for reliably meeting the present and future water needs of urban and agricultural water users and the environment in California. The competition for this finite water supply and increased regulation of the Sacramento-San Joaquin system have resulted in reductions in supplies in some sectors, in particular, the Central Valley Project (CVP) deliveries of water from the Delta to its contractors. At the same time, the ecosystem restoration actions taken since the early 1990s, both flow and non-flow actions, have resulted in significant improvements to fisheries, including listed species such as Delta smelt and winter run salmon. In fact, the increases in Delta smelt population since the Bay-Delta Accord suggest that the Delta smelt may be on the brink of recovery.

My testimony will first consider administrative and operational changes that can be made to meet present water supply and reliability needs. I will then address the question of finding additional solutions to reliably meet future needs in the 21st Century.

Achieving and maintaining a balance of fisheries protection and water supply for existing municipal and industrial and agricultural needs has not been easy. We can improve on what has already been accomplished by:

- using water more effectively through discretionary actions already available to the Secretary of Interior;
- using good science and requiring peer review in decision making while investing in high tech fish monitoring techniques to

ensure that measures to protect fish are effective and water is not wasted;
- increasing the cooperation between Federal, State and local projects to maximize the use of available water supply tools;
- implementing the CALFED Bay-Delta Program in a balanced way.

I will address each of these actions in turn.

1. Existing discretion available to the Secretary of Interior to increase flexibility of CVP operations

The Secretary of Interior has considerable discretion to provide increased water supplies through improved operational efficiency without impacting fish species. The Secretary has discretion, consistent with Judge Oliver Wanger's October 2001 decision in the U.S. District Court (Eastern District of California) lawsuit regarding implementation of the 800,000 acre-feet of dedicated CVP yield under the 1992 P.L. 102-575, commonly known as the Central Valley Project Improvement Act (CVPIA), Section 3406(b)(2), to ensure that the accounting for use of the 800,000 acre-feet for fisheries purposes does not ignore the considerable amount of water being used to meet American River flow requirements and the full amount of CVP yield being used to help meet the State of California's Bay-Delta water quality standards. The increased fish flows on the American and increased Delta flows required to meet the Bay-Delta standards provide benefits to fish that were not in place prior to CVPIA and should be taken into account. Accurately accounting for use of the 800,000 acre-feet of dedicated yield will free up limited water supplies for other CVP purposes.

The Secretary will also has the discretion to revise the current policy related to resetting the 800,000 acre-feet accounting for upstream reservoir storage releases in the fall and early winter if that storage is replaced later in the year ("reset"). The current Department of Interior accounting policy allows releases from upstream reservoirs during the period, October through January, to increase river flows to benefit fish but does not allow that water to be rediverted in the Delta to meet urban and agricultural needs. If the upstream reservoirs refill by the end of January, then, even though the fish have benefited from the releases, they do not count toward the 800,000 acre-feet. This method of accounting compels additional fish releases or export reductions later, and results in further reductions in agricultural and urban water supplies. This reset policy gives the fish a second or third bite at the apple while increasing the harm to water users. If this same faulty accounting policy were applied to CVP water service contracts, then contractors would not have to pay for delivered water if the reservoirs later refilled.

The current Interior policy of offsetting upstream reservoir releases made earlier in the year for fishery purposes against reductions in releases later in the year when exports are cut back to protect fish ("offset") is similarly unfair and unreasonable. This offset policy assumes that even though the water users south of the Delta are directly hurt by reduced deliveries during the irrigation season, and fish have presumably benefited by the export cuts, even more fish actions can be made because water is still available in the reservoirs north of the Delta. Water in upstream reservoirs, which may or may not be able to be delivered late in the irrigation season or after, is not equivalent to water actually delivered to the farms when it is needed. The loss in water supply reliability resulting from the "offset" policy has been estimated to be between 100 and 200,000 acre-feet annually. The Secretary has the discretion to fairly implement these requirements such that CVP water supplies are not unreasonably impacted.

A Federal Court decision that appears to agree with our concerns regarding "reset" and "offset" was released on February 5 after this testimony had been prepared. District Court Judge Wanger found that Interior's "reset" and "offset" policies both allow more than 800,000 acre-feet to be dedicated to fisheries purposes and found these policies to be arbitrary and capricious. The Secretary needs to revise the 800,000 acre-feet

accounting policy to ensure that water supplies to CVP contractors are not unlawfully impacted.

The Secretary in conjunction with other Federal and State agencies also has the discretion to operate the Federal project in coordination with the CALFED Environmental Water Account to maximize the benefits to fish and water users. However, the assets of the Environmental Water Account consist of both water and money to buy water, and consistent Federal funding is needed to make this innovative approach to water management work.

The Secretary in coordination with other Federal and State agencies also has the discretion to implement methods to improve the accuracy of forecasting Federal and State contractor demands from San Luis Reservoir to maximize the use of available storage. In recent years the actual low point in San Luis Reservoir has been significantly higher than forecasted. Had the contractor demands been more accurately predicted by Interior up to 200,000 acre-feet more water could have been made available to Federal contractors.

The Secretary also has discretion under the CVPIA Section 3406(b)(2)(D) to make the dedicated water that is not needed for fisheries purposes, based on a finding by the Secretary, available for other project purposes. The benefits of the CALFED Bay-Delta Program ecosystem restoration program and other habitat restoration processes implemented since the CVPIA are beginning to restore fish populations within the Sacramento-San Joaquin Bay-Delta system. As these populations continue to recover there will be opportunities for the Secretary to use this water to restore the water supply reliability for CVP contractors. The water needs for fisheries purposes must take into account the other habitat restoration tools that have been and are being implemented since 1992.

The Secretary has discretion and authority under Section 3406(d)(5) of the CVPIA to construct or acquire from non-Federal entities such water conveyance facilities, conveyance capacity, and wells as are necessary to provide water to refuges. Finding alternative sources of water for refuges will make water available for other project purposes.

The Federal project can also help meet the water needs of its contractors by expediting requests for water transfers and providing project power, generated using CVP facilities, to wheel transfer water through the State pumping facilities. CVP staff is already working hard to minimize delays in processing water transfers but lack the resources and procedures to meet the increased demand for transfers. Consideration also needs to be given to streamlining the environmental permitting for transfers of Federal water.

The Federal project can also assist by providing the ability for CVP contractors to carry over water in CVP or non-project reservoirs for use in the next contract year. Contra Costa Water District was unable to carryover water this year because carryover and rescheduling is not specifically provided for in our CVP contract. CCWD often uses its existing Los Vaqueros Reservoir to make releases to meet the District's water quality goals when the Federal and State projects are making releases from upstream reservoirs to meet Delta water quality and fish objectives. CCWD could assist the Federal and State projects meet those Delta ecosystem and water quality goals by reducing its diversions from the Delta during these periods if it could be guaranteed that CCWD could replace that water during times of excess flow in the Delta. This is consistent with Section 3408(d) of the 1992 CVPIA which authorizes the Secretary to enter into agreements to allow project contracting entities, such as CCWD, to use project facilities, in this case Shasta Reservoir, for supplying carry-over storage.

The Secretary should also incorporate these concepts of carryover and rescheduling into the current process

of long-term renewal of CVP contracts (required under Section 3404(c) of the CVPIA) to improve operational flexibility of the CVP. Interior is currently reviewing the bases for negotiation of these long-term renewal contracts.

2. Implementation of good science and peer review in decision making while employing improved technologies for project operations.

CALFED agencies and stakeholders have consistently called for decision making related to the water needs for the ecosystem to be based on a strong scientific program. Which employs state of the art technology and independent peer review. Recently, the National Academy of Sciences was asked to peer review the science used in decisions made regarding the Klamath. This type of review should be routine when moving forward with resource decisions on the Bay Delta. Additionally, CALFED has developed a long-term program to monitor the health of the ecosystem and will make decisions based on its findings. Federal agencies involved in this effort such as the U.S. Fish and Wildlife Service and National Marine Fisheries Service need to ensure that they are applying sufficient resources to these efforts.

Adaptive management will not work without the underpinning of a good scientifically sound database. The current technologies used to monitor the location of fish species within the Bay-Delta system are based in large part on outdated technologies such as nets deployed from river banks or towed behind boats. These provide limited insight on where the fish are, in what numbers or where they are heading. High tech methods such as that used in satellite remote sensing, acoustic sensing and other imaging techniques need to be implemented to better understand how to protect and enhance fisheries while restoring water supply reliability. Techniques used in other fields and the resourcefulness of the government laboratories and universities in the San Francisco Bay Area and high tech areas like Silicon Valley should be brought to bear on this problem.

Better knowledge of fish population response to flows, water quality, ocean harvest and other factors will enable the development of better science that can be use to assess the bases for fisheries actions, the results of such actions, and allow real-time adaptive management changes to those fish actions which may not always depend on more water releases.

While high tech fish monitoring may not be able to be deployed in time to directly improve water supply reliability in 2002, research and development needs to get underway now to be able to provide benefits in future years. Additional funding now will ensure better science for guiding and maximizing the efficiency of future project operations to meet all project purposes.

3. Increased cooperation between the Federal, State and local projects.

The ability of the Federal CVP to meet its contractors' water supply needs could be greatly increased if the CVP were able to make more use of the available State storage and conveyance facilities. The State of California already cooperates with the CVP in this regard but Congress should encourage and help facilitate an even greater level of cooperation.

The Federal pumping facility at Tracy in the South Delta is regularly at its maximum capacity. There are

times when the Central Valley Project is making releases of previously stored CVP water released from upstream reservoirs to meet fisheries habitat goals, such as maintaining cold temperatures for spawning fish, and is unable to recapture or reuse that Federal water to meet other project needs. This water has to be abandoned by the CVP where upon it is captured instead by the State Water Project using its excess capacity at the State pumping facility[(1)]

1. With better cooperation between the State and Federal agencies regulating and managing the water projects, a major share of that water could be pumped for the CVP at the State pumping facility, stored in available CVP, State or local storage facilities, and remain available for CVP project purposes.

The State already provides some wheeling of CVP water through the State facilities and allows temporary use of the State's share of storage in San Luis Reservoir for the benefit of the CVP. However, this joint use of facilities needs to be expanded to enable the Federal project to retain control over its water supplies.

This existing cooperation between the State and the Federal projects is not always one way - in June 2001, for example, the CVP pumped State Water Project water at Tracy to provide water to SWP contractors while the lining of the upper California Aqueduct, a State facility, was being repaired. A similar intertie from the State aqueduct to the Federal canal should be implemented this year to increase the ability of the CVP to deliver water to its contractors. This will allow the CVP to pump water to its full allocated and permitted level rather than being restricted by the reduced downstream canal capacity.

The CALFED Bay-Delta Program calls for increasing the permitted capacity of the State pumping facility in the South Delta to 8,500 cubic feet per second (cfs) initially and eventually to 10,300 cfs. This should only go forward if all impacts on other water users are mitigated; in particular the potential water quality impacts at CCWD's drinking water intakes. However, if the proposed expansions can be implemented without redirecting impacts to others, the Federal agencies should seek to formalize a share of that increased capacity to avoid further exacerbating the current windfall provided to the State project from actions by the Federal project to improve fisheries and the Bay-Delta ecosystem.

One example where Federal-State cooperation would be appear to be straightforward and could help improve a water agency's situation is in the case of Santa Clara Valley Water District, a San Francisco Bay Area urban agency, which is both a State Water Contractor and CVP contractor. Moving some CVP water to Santa Clara and the Silicon Valley via the South Bay Aqueduct rather than through San Luis Reservoir and the San Felipe Project would free up CVP capacity for other contractors while reducing an additional constraint on CVP deliveries, namely water quality issues for Santa Clara related to the low point in San Luis Reservoir storage. This would require agreements with the State and agreements with and between local agencies in the Bay Area. This proposal is currently being studied as part of the CALFED Bay-Area Blending/Exchange Project and the San Luis low point study, and could produce significant water quality and water supply reliability benefits.

As I mentioned earlier, CCWD unsuccessfully sought to carryover some of its CVP allocation in Shasta Reservoir this year. This was water that the CVP did not have to release to meet Delta flow and fisheries requirements because CCWD was taking water directly from Los Vaqueros Reservoir and reducing it diversions from the Delta during balanced conditions. This is an example where Federal project should cooperate with a local agency to meet Federal project goals.

Implement all aspects of CALFED Bay-Delta Program in a balanced manner

California's population is expected to increase by more than 8 million within the next 15 years, according to the California Department of Finance. Many of the administrative and operational actions I have already discussed will also help increase the water supply reliability needs in the near term future. Most of the future increases in water demand were identified by CALFED as being addressed by implementing water conservation and reclamation and transfers. However, new groundwater and surface storage projects, in particular those described in the CALFED Record of Decision, are needed to ensure the needed water quality for drinking water and the environment, and to meet the CALFED Environmental Water Account needs. These new storage facilities will allow more efficient use of capacity in existing reservoirs and improve water supply reliability.

New storage can lead to a win-win-win situation. For example, increased storage adjacent to urban areas can be used to capture good quality water during times of high flows when fish needs are being met. During times of low flow in the Delta when the source water from the Delta is typically more salty and fish are more susceptible, urban agencies can rely on the previously stored water to maintain an acceptable water supply for their customers and reduce their diversions from the Delta to the benefit of fish and water supply reliability.

I encourage Congress to put its full support behind ensuring that CALFED is implemented in a balanced way. The new groundwater and surface storage projects outlined in the CALFED Record of Decision are critical components of a balanced CALFED program and a necessary component for ensuring water quality and supply reliability to not only meet California's existing food production, manufacturing, and industrial and municipal needs but also the increased needs as California's population grows during the 21st Century.

Conclusion

Mr. Chairman, I realize that some of the suggestions made in this testimony cannot all be implemented immediately. However, I believe it is essential that the administrative agencies become much more energetic in using their existing powers to intelligently and actively manage their water supplies for the maximum benefit of all the state's needs. It is no longer acceptable to manage water supplies for just a single purpose, ignoring at the same time the opportunities they have to serve additional needs. We must make full use of the powerful tools of flexibility, innovation, cooperation and consensus to meet this challenge and build a better future. Thank you for the opportunity to appear before you today.

1 Note that the requirement for releases from Shasta Dam for cold water habitat predate the 1992 Central Valley Project Improvement Act and are not part of the 800,000 acre-feet of CVP yield that is dedicated for restoring anadromous fish. Releases of water to meet the 800,000 acre-feet provisions of CVPIA may or may not fall under the definition of abandoned water, depending on the final outcome of the ongoing 800,000 acre-feet litigation in Federal Court.

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